Before the DOCKET FILE COPY ORIGINAL
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in South Carolina

CC Docket No. 97-208

To: The Commission

BELLSOUTH'S MOTION TO STRIKE AT&T'S DECEMBER 8, 1997 LETTER

Continuing a pattern of improper submissions in this proceeding, AT&T has urged the Commission to ignore portions of BellSouth's Reply Comments and accompanying affidavits.[1] AT&T's effort apparently constitutes retaliation for BellSouth's Motion to Strike Portions of Reply Comments Raising New Arguments And/or Including New Evidence (filed Nov. Dec. 4, 1997), which discussed prior abusive filings by AT&T and other parties. AT&T simply captions its latest filing a "Letter," evidently because it could not decide whether to file an ex parte submission or a motion to strike. The Letter runs afoul of the requirements for both types of submissions, and should therefore be stricken. As a substantive matter, moreover, the assertions in AT&T's Letter are incorrect, and if considered by the Commission should be rejected.

[1] See Letter from Roy E. Hoffinger, General Attorney, AT&T, to Magalie R. Salas, Secretary, FCC (Dec. 8, 1997) attached as Exh. 1 to Rabkin Aff.

I. AT&T'S LETTER SHOULD BE STRICKEN

It is not clear what AT&T believed it was doing when it sent its Letter to the Commission. This Letter cannot be an ex parte submission, since AT&T did not label it as such, as required by the Commission's rules. 47 C.F.R. § 1.1206(a)(1).

Thus AT&T's Letter presumably is a non-dispositive motion.[2] In filing such a motion, AT&T was required "on the day of filing, [to] serve that motion either by hand or by facsimile on any party whose filing is the subject of the motion." Id. The Commission established this requirement in light of the "expedited nature of section 271 proceedings," while also shortening the usual response time for replies by three days. Id.

AT&T failed to serve BellSouth's outside counsel by either facsimile or hand. See Affidavit of Jonathan A. Rabkin attached hereto as Exhibit "A". Other counsel for BellSouth apparently were not served at all. AT&T thus violated the Commission's policy and abridged BellSouth's opportunity to reply. To treat all parties fairly and discourage future abuses, the Commission should strike AT&T's Letter.

II. THE ARGUMENTS AND FACTS IN BELLSOUTH'S REPLY ARE DIRECTLY RESPONSIVE TO COMMENTERS' SUBMISSIONS

Although the Commission should not consider the substance of AT&T's Letter, if the Commission does so it will find the Letter to be without merit. Contrary to AT&T's suggestion, BellSouth has not substantively changed its Application; to the contrary, BellSouth's Application shows full compliance with the Act's requirements. Any new evidence in BellSouth's Reply

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[2] Public Notice, Revised Procedures for Bell Operating Company Applications under Section 271 of the Communications Act, FCC 97-330, at 8 (rel. Sep. 19, 1997) ("Revised Procedures") (establishing rules for "[n]on-dispositive motions (e.g., motions to strike)").

Comments was offered in direct response to evidence or arguments raised by other parties in their comments. The Commission has expressly approved of the inclusion of such information in a reply filing.[3]

A. UNEs

In its Application, BellSouth stated that CLECs utilizing BellSouth's switching and transport offerings will receive interstate access charges. BellSouth Br. 43 (Sept. 30, 1997); Varner Aff. ¶ 108 (Application App. A at Tab 14). Having never inquired in preliminary State proceedings how BellSouth would make access charge billing information available to CLECs who purchase unbundled network elements, AT&T then raised the issue in its comments, claiming that BellSouth was "unwilling and unable . . . to provide CLECs with the information they need to bill IXCs for exchange access services." AT&T Comments at 11. BellSouth responded that (1) the needed information is available through a manual process, Varner Reply Aff. ¶ 14 (Reply App. at Tab 9), and (2) BellSouth is working with CLECs to improve this service (which already satisfies the checklist) by including this billing information as an enhancement to the Optional Daily Usage File. Id.

AT&T now castigates BellSouth for failing to anticipate its objection. Letter at 2. But as AT&T itself concedes, an Application need only anticipate arguments the Bell company has reason to believe will be raised. Letter at 1-2 (citing Michigan Order ¶ 57). AT&T cannot blame

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[3] See Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan, CC Docket No. 97-137, Memorandum Opinion and Order, FCC 97-298, ¶ 51 (rel. Aug. 19, 1997) ("Michigan Order").

BellSouth for AT&T's own failure to raise the access billing issue in South Carolina proceedings.

Nor can BellSouth's description of its ongoing effort to accommodate CLECs be used against BellSouth. The 1996 Act, as interpreted by the Commission, requires only that BellSouth ensure that CLECs are able to collect access charges associated with unbundled network elements. Michigan Order ¶ 317. There is no requirement that BellSouth fulfill this requirement through any particular method. Because BellSouth's current manual provision of the necessary information fulfills its obligations under the Act, the planned electronic system is not necessary for approval of BellSouth's Application. This is simply information that will assist the Commission in considering AT&T's attacks on BellSouth.

B. CSAs

AT&T asserts that BellSouth should have included a lengthy discussion of CSAs in its initial filing, because AT&T had raised this issue with various state commissions. Letter at 3. AT&T ignores that BellSouth clearly set forth its South Carolina PSC-approved policy on resale of CSAs in its Application, explaining that CSAs "are available for resale at the same rates, terms, and conditions offered to BellSouth's end user customers." BellSouth Br. at 53; Varner Aff. ¶ 192.

BellSouth did not discuss these policies at greater length because it expected that CSAs would not be a significant issue in this proceeding. The pricing of CSAs is an issue for state commissions, upon whom the Act bestows all pricing authority. Iowa Utils. Bd. v. FCC, 120 F.3d 753, 799 (8th Cir. 1997). Although AT&T may have challenged BellSouth's pricing of CSAs before the South Carolina PSC, BellSouth had no reason to believe AT&T would ignore

the South Carolina PSC's determinative findings and recycle its objections before this Commission, which has no jurisdiction over the issue. See BellSouth Reply at 59-61 (Nov. 14, 1997).

C. OSS

AT&T's efforts to keep the Commission uninformed of BellSouth's compliance with section 271 is most pronounced with respect to OSS. AT&T argues that the Commission should not participate in a live demonstration of an applicant's systems once an Application has been filed. Letter at 5. But it is after the Application and comments are filed that the Commission and its staff will have specific questions about OSS access.

AT&T's assertions that BellSouth will fool the Commission by displaying "upgrades to LENS that post-date its application" are without foundation. Letter at 5. For one thing, BellSouth submitted with its Application a videotape that demonstrates exactly how LENS was functioning as of the date of the Application. BellSouth Application App. D, Tab 7. For another, BellSouth has been very specific in describing ongoing improvements to its systems. For example, BellSouth explained in its Application that "[m]echanized service order generation for unbundled loops, ports, and interim number portability has been tested and is available to CLECs as of October 6, 1997," and confirmed in its Reply Comments that this improvement — which goes beyond what the Act requires — had been completed. BellSouth Br. at 28; Stacy OSS Aff. ¶ 58 (Application App. A at Tab 12); BellSouth Reply at 45; Stacy OSS Reply Aff. ¶ 51 (Reply App. at Tab 7). Likewise, BellSouth revealed in its Application that "even though it is not required to do so to meet its duty of nondiscriminatory access under the Act, BellSouth is developing a customized machine-to-machine interface ("EC-LITE") that meets AT&T's

particular specifications. BellSouth expects to deploy this interface in December 1997." BellSouth Br. at 26. Indeed, at the same time it accuses BellSouth of seeking to hide changes to its OSS interfaces from the Commission, AT&T faults BellSouth for openly identifying such post-Application developments. See Letter at 4 (noting additional data on order processing volumes, description of CLEC conference, and report that billing problems had been corrected).

AT&T also blames BellSouth for failing to anticipate arguments about OSS access that could not have been foreseen. Letter at 4. As AT&T explains, William Stacy properly responded in his reply affidavit to MCI's arguments about the Common Gateway Interface ("CGI"). See Stacy (OSS) Reply Aff. ¶ 39 (responding to MCI's King). AT&T argues that Mr. Stacy should have anticipated in its Application that AT&T would raise a different CGI issue, based upon AT&T's arguments in state proceedings. Letter at 4. But as BellSouth explained in its Application, AT&T had already told BellSouth the company would not utilize BellSouth's CGI specifications for its own business reasons. Stacy OSS Aff. ¶ 42; see also BellSouth Reply at 42-43; Stacy OSS Reply Aff. ¶¶ 35-38. Having disclaimed interest in CGI, AT&T could not have been expected to feign an interest in CGI in this proceeding.

Finally, AT&T faults BellSouth for responding to ICI's accusations about BellSouth's Local Carrier Service Center ("LCSC") and AT&T's assertions about the address validation database known as "RSAG." Letter at 5. As Mr. Stacy made clear in reply, BellSouth submitted audit information (which pre-dated the Application) in direct response to ICI's introduction of "outdated audit information on BellSouth's LCSC." Stacy OSS Reply Aff. ¶ 67 (responding to ICI at 26). BellSouth likewise discussed RSAG in its reply filing only to show that AT&T's alleged "problems" were actually caused by AT&T itself, and did not even pertain to RSAG. Id.

¶¶ 45-46. The Commission has expressly affirmed an applicant's right to "submit new factual evidence in its reply if the sole purpose of that evidence is to rebut arguments made, or facts submitted, by commenters." Revised Procedures at 7.

D. Performance Measures

AT&T further objects that BellSouth submitted additional data on average installation intervals in its reply comments. Letter at 5-6. AT&T simply ignores BellSouth's explanation as to why this data was not included in its Application: it is not an appropriate measure of nondiscrimination. See BellSouth Reply Br. 55-56; Stacy (Performance) Reply Aff. ¶ 10 (Reply App. at Tab 8). The relevant data demonstrating nondiscrimination, which BellSouth included in its Application, are (1) nondiscriminatory assignment of due dates, see Stacy Performance Aff. Ex. WNS-10 (Application App. A at Tab 13), and (2) nondiscriminatory meeting of due dates, id. Ex. WNS-9. BellSouth's original submissions show that BellSouth makes due dates available, and meets them, on a non-discriminatory basis.

The average installation intervals that AT&T claims are so important are worthless as a measure of nondiscrimination by BellSouth because they incorporate CLEC scheduling preferences. See BellSouth Reply at 54-55. BellSouth has provided data on average installation intervals solely in response to the professed desire of AT&T and others, and does not ask the Commission to give this data any weight.

E. Posting of Transactions

AT&T faults BellSouth for noting that, outside the context of this Application, it has posted affiliate transactions on the Internet. Letter at 6. BellSouth explained in its Application that "[p]rior to receiving interLATA authorization and establishing BSLD as a section 272

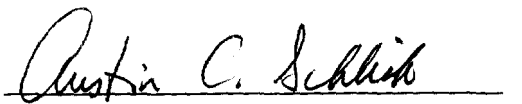
affiliate, BST and BSLD need not conduct transactions in accordance with the requirements of section 272" and the Commission's implementing rules. BellSouth Br. at 59. BellSouth holds to that position. Nonetheless, when applying for interLATA relief in Louisiana, BellSouth posted affiliate transactions on the Internet in order to placate opponents such as AT&T and relieve the Commission of having to address the issue. See BellSouth Louisiana Br., Dkt. No. 96-231, at 76 (filed Nov. 6, 1997).

BellSouth believes its decision to post transactions on the Internet prior to exercising interLATA authority has no bearing upon BellSouth's eligibility for interLATA relief in South Carolina. BellSouth Br. at 59 (quoting 47 U.S.C. § 271(d)(3)(B)) (emphasis added in BellSouth Br.). That does not mean, however, that BellSouth should conceal facts the Commission may consider relevant.

CONCLUSION

AT&T's Letter of December 8 should be stricken because it is procedurally improper. In the alternative, it should be ignored as substantively unfounded.

Respectfully submitted,



MICHAEL K. KELLOGG
AUSTIN C. SCHLICK
JONATHAN T. MOLOT
WILLIAM B. PETERSEN
KELLOGG, HUBER, HANSEN,
TODD & EVANS, P.L.L.C.
1301 K Street, N.W.
Suite 1000 West
Washington DC 20005
(202) 326-7900
Counsel for BellSouth Corporation, BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc.

MARGARET H. GREENE
R. DOUGLAS LACKEY
MICHAEL A. TANNER
STEPHEN M. KLIMACEK
675 W. Peachtree Street, N.E.
Suite 4300
Atlanta, GA 30375
(404) 335-0764
Counsel for BellSouth Telecommunications, Inc.

WALTER H. ALFORD
WILLIAM B. BARFIELD
JIM O. LLEWELLYN
1155 Peachtree Street, N.E.
Atlanta, GA 30367
(404) 249-2051
DAVID G. FROLIO
1133 21st Street, N.W.
Washington, DC 20036
(202) 463-4182
GARY M. EPSTEIN
LATHAM & WATKINS
1001 Pennsylvania Ave., N.W.
Washington, DC 20004
(202) 637-2249
Counsel for BellSouth Corporation

JAMES G. HARRALSON
28 Perimeter Center East
Atlanta, GA 30346
(770)352-3116
Counsel for BellSouth Long Distance, Inc.

December 19, 1997

EXHIBIT A

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Application by BellSouth Corporation,	)	CC Docket No. 97-208
BellSouth Telecommunications, Inc.,	)	
and BellSouth Long Distance, Inc., for	)	
Provision of In-Region, InterLATA	)	
Services in South Carolina	)	

Jonathan A. Rabkin, being duly sworn, deposes and states as follows:

1. My name is Jonathan A. Rabkin. I am a paralegal at the law firm of Kellogg, Huber, Hansen, Todd, & Evans, P.L.L.C., which represents BellSouth Corporation ("BellSouth") in this matter.

2. The attached letter, dated December 8, 1997, from Roy E. Hoffinger, AT&T, to Magalie R. Salas, Federal Communications Commission ("December 8th Letter"), arrived at our offices by First Class Mail on December 9, 1997. A copy of the December 8th Letter is attached to this affidavit as Exhibit 1. A copy of the post-marked envelope that contained this letter is attached to this affidavit as Exhibit 2.

3. Our firm did not receive the December 8th Letter by hand at any time. I have verified this by reviewing our firm's Incoming Package Log, which is used to track every package and hand-delivered item that is received by our firm. For every item that is received by our firm, the Incoming Package Log indicates: the date and time it was received, the name of the person sending

it, and the name of the person at our firm to whom it was addressed. There is no entry in the Incoming Package Log for the December 8th Letter.

4. I can also attest that the December 8th Letter was not sent to our firm by facsimile transmission. I have verified this by reviewing the firm's Incoming Fax Log, which is used to track every fax that is received by our firm. For every fax that is received by our firm, the Incoming Fax Log indicates: the date and time it was received, the name of the person sending it, and the name of the person at our firm to whom it was addressed. There is no entry in the Incoming Fax Log for the December 8th Letter.

Jonathan A. Rabkin

Jonathan A. Rabkin

Sworn to before me this

19th day of December, 1997.

Catherine D. Collins

Notary Public

CATHERINE D. COLLINS
My Commission Expires April 30, 2001

EXHIBIT 1

AT&T

Roy E. Hoffinger
General Attorney

Room 3249J1
295 North Maple Avenue
Basking Ridge, NJ 07920
908 221-2631
FAX 908 953-8360

December 8, 1997

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
1919 M Street N.W. - Room 222
Washington, D.C. 20554

Re: Application By BellSouth Corp. et al. for Provision of In-Region, InterLATA Services in South Carolina, CC Docket No. 97-208

Dear Ms. Salas:

In issuing revised procedures governing section 271 applications, the Commission reaffirmed that the applicant's "reply comments may not raise new arguments or include new data that are not directly responsive to arguments other participants have raised."[1] Similarly, in the Ameritech Michigan Order, the Commission held that the "right of the applicant to submit new factual information after its application has been filed is narrowly circumscribed." Ameritech Michigan Order ¶ 51. In particular, the Commission held that a BOC (1) may not submit new evidence unless it "*covers only the period placed in dispute by commenters and in no event post-dates the filing of those comments*" (id. emphasis in original); (2) may not rely upon "paper promises" of "future performance" (id. ¶ 55, emphasis in original); (3) "must address in its initial application all facts that the BOC can reasonably anticipate will be at issue" (id. ¶ 57); and (4) "must identify and anticipate certain arguments" --

[1] *Revised Procedures for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, FCC 97-330 (Sept. 19, 1997) at 7; see *Procedures for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, FCC 96-469 (Dec. 6, 1996) at 4.

including those made in "state proceedings" -- that commenting "parties will make in their filings before the Commission." Id.

As set forth below, BellSouth's reply comments and accompanying affidavits repeatedly violate each of these requirements. There is no excuse for such non-compliance. Not only are the Commission's rules clearly set forth, but BellSouth itself invoked them in its recent motion to strike (although it misapplied them to AT&T).[2] In addition, BellSouth was plainly put on notice -- both in numerous state proceedings and from AT&T's letter to BellSouth of September 25, 1997, identifying disputed issues (see Exhibit 1 hereto) -- of the issues that its application would raise. Accordingly, BellSouth's improper reply submissions should "not receive any weight." Ameritech Michigan Order ¶ 51.

1. UNEs: One of the central issues of dispute between AT&T and BellSouth is BellSouth's inability to provide CLECs that purchase unbundled switching with the usage data they need to bill carriers for access services. But not until its reply comments (at pp. 66-67) did BellSouth offer to provide such access records, claiming that those records that could not be produced electronically would be made available "in a non-electronic form." See Varner Reply Aff. ¶ 14. By waiting to make this assertion until the reply phase, BellSouth denied commenting parties an opportunity to comment in this docket upon the inadequacy of using paper records for access billing. Cf. Affidavit of James Tamplin, ¶¶ 23-27, submitted by AT&T in CC Docket No. 97-231 (BellSouth Louisiana).

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[2] See BellSouth's Motion to Strike Portions of Reply Comments Raising New Arguments And/Or Including New Evidence at 1-2 (CC Docket No. 97-208, filed Dec. 4, 1997) (acknowledging standards); id. at 7-8 (erroneously moving to strike AT&T's reply to Ameritech's comments on joint marketing). AT&T's reply comments on joint marketing were proper because they responded to Ameritech's five-page treatment of the issue -- one of only three issues that Ameritech chose to highlight. See AT&T Reply Comments at 32 (responding to "Ameritech Comments at 11-15"). In particular, AT&T responded to Ameritech's misleading assertion that equal access requirements require incumbent LECs to recite lists "'in excess of 100 available carriers'" (see id. at 34 (quoting Ameritech Comments at 15)), and otherwise demonstrated that Ameritech's extended arguments had no more merit than the arguments that BellSouth previously advanced. See AT&T Reply Comments at 32-36. In short, by addressing the joint marketing issue at such length, Ameritech's comments invited and justified AT&T's comments in reply.

Similarly, in its reply comments (p. 73), BellSouth relies on paragraph 23 of Mr. Milner's reply affidavit, which claims for the first time that "BellSouth has demonstrated its capability to mechanically produce a bill for usage charges if a CLEC purchases unbundled switching" because the "first production cycle" for such bills was "September 25, 1997" and because Mr. Milner is "unaware of any complaints . . . regarding the accuracy, format or content of these bills for unbundled local switching." Milner Reply Aff. ¶ 23. This, too, is improper. The facts of this "first production cycle" were known to BellSouth prior to its filing and should have been raised initially, and Mr. Milner's attempt to rely on the time-period up until the filing of his reply affidavit for the supposed absence of complaints is also plainly improper. By keeping this argument in its hip pocket until the reply phase, BellSouth denied CLECs the opportunity in this docket to point out the many defects in BellSouth's reliance on this belated and ineffectual "first production cycle." Cf. Tamplin Louisiana Aff. ¶¶ 31-35.

2. CSAs: BellSouth blatantly violated the Commission's rules against new arguments on reply with respect to CSAs. AT&T contested this issue repeatedly in state proceedings and raised it again in a letter sent to BellSouth just days before its application. See Exhibit 1 hereto, p. 3. BellSouth therefore could and should have "reasonably anticipate[d]" that CSA resale restrictions would be at issue in its application, and thus should have "include[d] in its initial filing . . . arguments addressing this issue." Ameritech Michigan Order ¶¶ 57-58.

Instead, BellSouth waited until its Reply Brief to include any arguments that attempt to justify the resale restrictions it imposes on Contract Service Arrangements ("CSAs"). In particular, BellSouth never argued, until its reply, that refusing to apply a wholesale discount to CSAs was necessary for BellSouth to "meet competition." Reply Br. at 60. Compare id. at 58-62 and Varner Reply Aff. ¶¶ 41-45 (raising host of new justifications for restrictions) with Br. at 53 and Varner Aff. ¶¶ 191-92 (obliquely arguing only that resale restrictions are justified by orders of the SCPSC and by offer of CSAs to CLECs at the same "rates, terms, and conditions offered to BellSouth's end user customers"). By failing to set forth its most substantive arguments until reply, BellSouth prevented AT&T and other CLECs from addressing these claims and from demonstrating that these new arguments do not in any way rebut the presumption against resale restrictions. Cf. AT&T Comments (Louisiana), CC Docket 97-231, at 58-65 (a "meeting competition" defense to ILECs' resale duties in sections 251 and 252 is antithetical to the Act's purpose of creating local competition; moreover, the Commission has never allowed dominant carriers even

to provide customer-specific offerings that are not generally available and and can be used to foreclose market entry by locking in large customers) (responding to BellSouth's initial La. Br. at 66-69).

3. OSS: With respect to OSS, BellSouth submitted new information with its reply that post-dated not only the date on which it filed its application (September 30, 1997), but in many cases the date on which commenting parties responded (October 20) and which, in all events, was not responsive to any facts post-dating September 30 put in issue by commenting parties.

For example, the reply affidavit of William Stacy provided data from October 1997 on order processing volumes, the percentage of orders placed through LENS, and firm order confirmations (FOCs). See Stacy OSS Reply Aff. ¶¶ 29, 56, 62. Mr. Stacy also described certain purported events at a "CLEC conference" held on October 30-31, 1997, including materials BellSouth distributed that supposedly gave "further definition to business rules" (id. ¶¶ 47, 65); stated that an "initial version" of electronic rejection notices would be "available in November, 1997," with the "full version" operational in the "first quarter of 1988" (¶ 47); described other OSS capabilities, such as the Quickservice and Connect Through indicators, that were implemented only after BellSouth filed its application (¶¶ 29, 40); and significantly increased BellSouth's capacity projections over the projections contained in its initial filing (¶¶ 61-62). Likewise, David Hollett's reply affidavit asserted that a problem with BellSouth's bills "was corrected with tapes sent October 23, 1997 and subsequent tapes." Hollett Reply Aff., ¶ 4. See also id., ¶ 9 ("BST has now corrected most of the billing errors that have been identified" (emphasis added)).

BellSouth's reply submission also discussed facts that pre-dated September 30, but that BellSouth knew were relevant to CLEC concerns and should therefore have raised in its initial submission. See Ameritech Michigan Order ¶ 57. For example, Mr. Stacy's reply affidavit described at length BellSouth's actions with respect to providing specifications for the CGI interface, and claimed that it was not until September 5, 1997, that MCI expressed interest sufficient for BellSouth to commit resources to developing the specifications. (Stacy Reply Aff., ¶ 39). These events are not discussed in Mr. Stacy's initial affidavit, even though he was fully aware from state commission proceedings of AT&T's position on the CGI specifications, nor did Mr. Stacy disclose in his initial affidavit that MCI had expressed an interest on September 5 and that BellSouth had decided to update its specifications. Mr. Stacy's reply affidavit also contained a

lengthy discussion of BellSouth's RSAG access problem, which occurred in August-September 1997 prior to the filing of its application, as well as "new audit information" BellSouth received from DeWolff, Boberg and Associates on September 15, 1997 (¶ 67) -- each of which could and should have been submitted with its initial application.

Finally, AT&T objects to BellSouth's attempt to supplement the record on OSS by means of an ex parte demonstration of certain aspects of CLEC access to its OSS -- including its Local Exchange Navigation System (LENS). Such a demonstration is improper, and should be disregarded by the Commission, for two reasons.

First, as the affidavit of Cynthia A. Clark explains, "LENS as it exists today is significantly different than it was on September 30, 1997," the date of BellSouth's South Carolina filing. Clark Aff. ¶ 2; see id. at ¶¶ 2-5 (attached hereto as Exhibit 2). BellSouth's attempt to rely on upgrades to LENS that post-date its application thus squarely contravenes the Commission's rules.

Second, and more fundamentally, an ex parte demonstration of selected aspects of a complex system such as LENS is of little value and procedurally improper when conducted after the application is filed. Such demonstrations have already been found to merit little, if any weight, because the Commission has held that it will evaluate CLEC access to OSS based upon data measuring the performance of the systems in "actual commercial usage." Ameritech Michigan Order ¶ 138. And even if the Commission did seek to rely on such demonstrations, there is no reason not to require them to be submitted, on videotape, with the BOC's initial filing. Permitting BOCs to provide them ex parte, with only a superficial post-meeting disclosure, deprives interested parties of any meaningful opportunity to comment upon the misinformation these canned presentations likely contain.

4. Performance Measures: Even though the Commission has made clear that the "average installation interval is a critical [performance] measurement" (Ameritech Michigan Order ¶ 168; see id. ¶¶ 164-71), BellSouth chose to submit data in its initial submission that measured only the interval between BellSouth's "issue" date and its committed "due date" for CLEC and BellSouth orders. See Stacy PM Aff. Ex. WNS-10. Rather than defend this inadequate and misleading attempt to measure installation intervals, BellSouth chose on reply to submit a new and doubly improper set of data. See Stacy PM Reply Aff. Ex. WNS-2. The new exhibit not only measures a different interval (that between "issue" date and the "completion date"), but reports exclusively

on BellSouth's performance for the month of October. Id. The submission must be disregarded here, not only because it relies on October data, but because -- had this performance measure been submitted with BellSouth's initial application -- AT&T would have had an opportunity to point out the defects in BellSouth's interpretation of it, and to provide its own data that contradicts the results that BellSouth reports. See, e.g., Bradbury Louisiana Aff. ¶¶ 237-239 & Attachment 66; Pfau Louisiana Aff. ¶ 28 n.49.

5. Section 272: Yet another example of BellSouth's noncompliance is its improper reliance on the belated assertion that BellSouth "has disclosed agreements between BST and BSLD on the internet." Reply Brief at 83 n.5. In fact, BellSouth did not disclose any agreements until after the October 20 deadline for response comments from its competitors, and BellSouth's purported excuse -- that "[o]nly after terms and conditions are final, will contracts be available for review . . . on the Internet" (Cochran Reply Aff. ¶ 5) is not only irrelevant for purposes of complying with this Commission's rules but factually unfounded, since at least five of the posted agreements were finalized prior to June 30, 1997.

Sincerely,

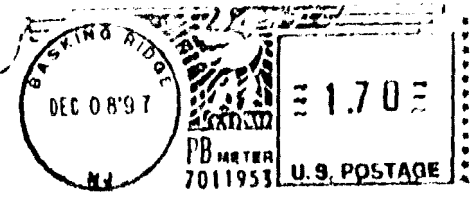
Roy E. Hoffinger /ha

Roy E. Hoffinger

Attachments

cc: All parties of record

EXHIBIT 2



AT&T

295 N. Maple Avenue
Basking Ridge, NJ 07920

First Class Mail

Michael K. Kellogg
Austin C. Schlick
Kevin J. Cameron
Jonathan T. Molot
Kellog, Huber, Hansen,
Todd & Evans, PLCC
Suite 1000 West
1301 K Street, NW
Washington, DC 20005

CERTIFICATE OF SERVICE

I, Jonathan Rabkin, hereby certify that on this 19th day of December, 1997, I caused copies of BellSouth's Motion to Strike AT&T's December 8, 1997 Letter to be served by facsimile and hand-delivery upon the parties whose filings are the subject of this motion (marked with an asterisk), and by U.S. mail on the remaining parties.

Jonathan Rabkin

SERVICE LIST

FCC Docket No. 97-208

Federal Communications Commission	Magalie Salas (Original + 11 copies) Office of the Secretary Federal Communications Commission Room 222 1919 M Street, N.W. Washington, DC 20554
	Janice Myles (5 copies) Policy and Program Planning Division Common Carrier Bureau Federal Communications Commission Room 544 1919 M Street, N.W. Washington, DC 20554
U.S. Department of Justice	Donald J. Russell (5 copies) U.S. Department of Justice Antitrust Division, City Center Building 1401 H Street, N.W., Suite 8000 Washington, DC 20530
	Joel Klein Acting Assistant U.S. Attorney U.S. Department of Justice 950 Pennsylvania Ave., N.W. Washington, DC 20530-001
South Carolina Public Service Commission	F. David Butler, General Counsel South Carolina Public Service Commission 111 Doctors Circle P.O. Box 11649 Columbia, SC 29211
ITS	ITS 1231 20th Street, N.W. Washington, DC 20036

ACSI	Riley M. Murphy Executive Vice President and General Counsel American Communications Services, Inc. 131 National Business Parkway Suite 100 Annapolis Junction, MD 20701 Brad E. Mutschelknaus John J. Heitmann Kelley Drye & Warren LLP 1200 Nineteenth Street, N.W. Suite 500 Washington, D.C. 20036
Ad Hoc Coalition	Rodney L. Joyce Ginsburg, Feldman and Bress 1250 Connecticut Avenue, N.W. Washington, D.C. 20036
Ameritech	Kelly R. Welsh John T. Lenahan Gary L. Phillips Ameritech 30 South Wacker Drive Chicago, IL 60606 Theodore A. Livingston Douglas A. Poe John E. Muench Gary Feinerman Mayer, Brown & Platt 190 South LaSalle Street Chicago, IL 60603
ALTS	Richard J. Metzger Emily M. Williams Association for Local Telecommunications Services 888 17th Street, N.W. Washington, D.C. 20006

American Council on Education	Sheldon E. Steinbach Vice President and General Counsel American Council on Education One Dupont Circle, N.W. Washington, D.C. 20036
American Council on Education	Christine E. Larger Director, Public Policy and Management Programs National Association of College and University Business Officers 2501 M Street, N.W. Washington, D.C. 20037
*AT&T	Mark C. Rosenblum Leonard J. Cali Roy E. Hoffinger Stephen C. Garavito AT&T Corp. 295 North Maple Avenue Basking Ridge, NJ 07920 (by fax only) Kenneth P. McNeely AT&T Corp. 1200 Peachtree Street, N.E. Promenade I, Room 4036 Atlanta, GA 30309 (by fax only) David W. Carpenter Mark E. Haddad Ronald S. Flagg Lawrence A. Miller George W. Jones, Jr. Richard E. Young Sidley & Austin 1722 Eye Street, N.W. Washington, D.C. 20006
Competitive Telecommunications Association	Genevieve Morelli Executive V.P. and General Counsel The Competitive Telecommunications Association 1900 M Street, N.W. Suite 800 Washington, D.C. 20036